

***United States Court of Appeals  
for the Second Circuit***



**APPELLANT'S  
APPENDIX**



# 74-1530

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

-against-

PATRICK McDONOUGH,

Appellant.

Docket No. 74-1530

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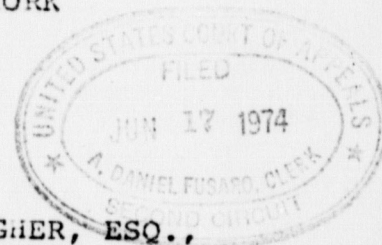
## APPENDIX TO APPELLANT'S BRIEF

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ON APPEAL FROM A JUDGMENT  
OF THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

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Of Counsel



APPEAL

73 CR 954

NEAHER, J.

TITLE OF CASE

THE UNITED STATES

vs.

PATRICK J. McDONOUGH

ATTORNEYS

For U. S. Levin-Epstein

For Defendant:

Did pass counterfeit obligations

ABSTRACT OF COSTS

AMOUNT

CASH RECEIVED AND DISBURSED

DATE

NAME

RECEIVED

DISBURSED

Fine,  
Clerk,  
Marshal,  
Attorney,  
Commissioner's Court,  
Witnesses,

4/9/74  
Tolice [unclear]  
[unclear]

DATE

PROCEEDINGS

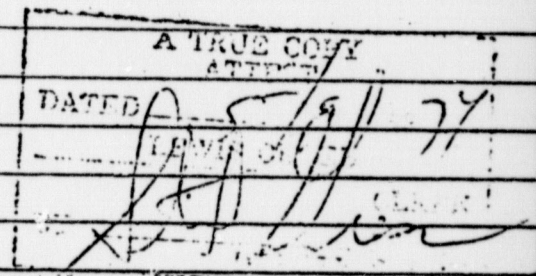
10/30/73 Before TRAVIA, J. - Indictment filed  
11-9-73 Before NEAHER, J. - Case called- Deft not present- Bench warrant ordered  
Execution stayed to 11-13-73  
11-14-73 Before NEAHER, J. - Case called- Deft arraigned and enters a plea of  
not guilty- Case adjd to 1-14-74 for status report  
1-19-73 Govts Notice of Readiness for Trial filed.  
12-5-73 Notice of Motion to dismiss the Indictment, etc. (Judge Neaher  
has papers)  
2/27/73 Affidavit of Ethan Levin-Epstein filed.  
-14-74 Before NEAHER, J. - Case called- Deft and counsel present- Deft waives Jur.  
Trial- Waiver signed- Deft's motion to dismiss pursuant to 6 month rule  
argued and denied- Trial ordered and begun-Trial contd to 1-15-74  
14-74 Waiver of Trial by Jury filed

ONLY COPY AVAILABLE



# 73 CR 954

DATE	PROCEEDINGS
1-15-74	Before NEAHER, J. - Case called - Deft and counsel present - Trial resumed - Hearing on motion to suppress - Motion denied - Deft rests - Both sides rest - Court finds deft guilty <sup>counts 1 and 2</sup> - Trial concluded
4-5-74	Before Neaheer, J - case called - Bench Warrant ordered - Execution stayed to April 19, 1974 at 11:30 am - adjd to 4-12-74 at 11:30 am. ( for sentencing)
4-19-74	Before NEAHER, J - case called - deft & counsel S Chrein of Legal Aid present - Imposition of sentence is suspended and the deft is placed on 3 years probation. Clerk to file Notice of Appeal on behalf of the deft.
4-19-74	Judgment and Order of Probation filed - certified copies to Probation.
4-19-74	Notice of Appeal filed.
4-19-74	Docket entries and duplicate of Notice of Appeal mailed to the C of A.
5-9-74	Order received from court of appeals and filed that record be docketed or before 5-9-74



★ OCT 30 1973 ★

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

TIME A.M. \_\_\_\_\_  
P.M. \_\_\_\_\_

----- X  
UNITED STATES OF AMERICA

INDICTMENT

-against-

Cr. No. \_\_\_\_\_  
T. 18 U.S.C.  
§472

PATRICK J. McDONOUGH,

Defendant.

----- X  
THE GRAND JURY CHARGES:

COUNT ONE

On or about the 13th day of May 1973, within the Eastern District of New York, the defendant PATRICK J. McDONOUGH, with intent to defraud, did keep in his possession and conceal three (3) counterfeit Ten Dollar (\$10.00) Federal Reserve Notes bearing serial number B36774803A, knowing the same to be falsely made, forged and counterfeited. (Title 18, United States Code, §472).

COUNT TWO

On or about the 13th day of May 1973, within the Eastern District of New York, the defendant PATRICK J. McDONOUGH, with intent to defraud, did pass, utter and publish three (3) counterfeit Ten Dollar (\$10.00) Federal Reserve Notes bearing serial number B36774803A, knowing the same to be falsely made, forged and counterfeited. (Title 18, United States Code, §472).

A TRUE BILL.

FOREMAN.

Robert A. Mose / 878  
UNITED STATES ATTORNEY



1 THE COURT: Let me try and see if this is a  
2 fair summation as I've heard it.

3 This defendant was observed by a bartender in  
4 this nightclub passing a ten dollars federal reserve  
5 note each time, as I understood the testimony, for a  
6 drink on three separate occasions in the course of  
7 the evening. The man at the bar testified that he  
8 could see that the serial numbers on the notes were  
9 identical, something that you or I or anybody else  
10 would agree would be rather unusual. Also as he  
11 said from his thirteen years experience of dealing  
12 with lithography and paper work, it was clear to him  
13 that these were phonies. That's pretty much the way  
14 I would sum it up. Now, it is true that this defen-  
15 dant made no statement to the police officer who was  
16 present there as a private person that evening and  
17 virtually in effect denied any knowledge of this as  
18 to the nature of these bills. Assuming that he was  
19 placed under arrest and taken back to the police station,  
20 the testimony seems to be that he really made no state-  
21 ment until, as he just testified now, he realized that  
22 they did know where his other room was, and he made  
23 up his mind at that time to cooperate. Now, the basic  
24 question is whether that change of mind was produced by  
25 his intellectual recognition based on the man's descrip-

1           tion of where they had been at Newbridge, that they  
2           did in fact know that he had another room and his  
3           own awareness that he did have other currency there  
4           which later was proved none of which has been offered  
5           against him, and the only link to those circumstances  
6           is Caputo's testimony. As I read from my notes he  
7           made the statement to Caputo that he did have additional  
8           currency, or at least, as I understand Caputo's testi-  
9           mony, he certainly made his statement that he did  
10          have additional currency there, that went in on the  
11          government's direct case. Your objection was that  
12          your excepting to the fact that he had been given  
13          his Miranda Warnings without coercion was limited only  
14          to the first interview in which he had denied anything.  
15          So what I understand to be the issue framed here is  
16          whether his continued detention, if you can call it  
17          that, in the police station from 12:30 to 4:30 or  
18          5:00 or 6:00 in the presence of police officers was  
19          really the cohesive coil or his intellectual mind  
20          when one came back and said he knew where he had the  
21          other apartment, whether that was the triggering effect  
22          of his admission, I'm inclined to believe that it was  
23          the latter, and that there was not any evidence of a  
24          physical coercion or overhearing or submission to  
25          authority but rather this defendant's recognition that



1 they did know where he lived and they could go  
2 there and find what he knew was already there; so  
3 under the circumstances since the Government has not  
4 offered the other items in evidence, the Court is  
5 paying no attention to whatever these other bills  
6 were at all. I'm simply saying that to the extent  
7 that his statement made to Caputo that he had addi-  
8 tional currency at the other place which has not been  
9 offered in evidence will not be given great weight  
10 by me. I am basing my judgement here that this  
11 defendant is guilty as charged based entirely on the  
12 circumstances under which he passed these bills from  
13 which I infer that he had the knowledge and intent  
14 that they were counterfeit and accordingly I find  
15 him guilty.

Certificate of Service

June 17, 1974

I certify that a copy of this brief and appendix has been mailed to the United States Attorney for the ~~Southern~~ Eastern District of New York.

Raymond Albert Samberg



